

REMARKS

Claims 1-30 are now pending in this Application. The Final Office Action (FOA) dated December 12, 2005 rejected Claims 1-28. Applicant previously amended Claims 22 and 28 in a response filed February 9, 2006 to correct antecedent basis. An Advisory Action (AA) dated February 24, 2006 indicates that the amendments were entered. Thus, Claims 22 and 28 are not amended again in this paper. New Claims 29 and 30 are added. Applicant submits that the pending claims are patentable for the reasons discussed in detail below.

Interview Summary

A relatively lengthy telephone interview was held on March 21, 2006. The following is a summary of the telephone interview as Applicant's attorney understood the discussion. Applicant's attorney requested clarification on which elements of the cited reference (Rouse – 2003/0158816) the Examiner believed corresponded to particular limitations of the independent claims. Applicant's attorney explained that the FOA was unclear in its 102 rejections as to as to which of multiple elements in cited paragraphs of the cited reference corresponded to certain claim limitations. Specifically, it was unclear whether the Examiner believed that a "Protected Link" or a "Request URL" of the cited prior art disclosed the claim limitation of a metering URL. No direct association was made. Instead, the Examiner indicated that it is not possible to "meter" a URL. Thus, the Examiner had apparently interpreted the word "metering" as a verb rather than as a name for the URL. Applicant's attorney explained that the term "metering URL" was the name of the URL. Applicant's attorney also explained that the claims specify that a target of the metering URL is a user meter. Thus, the metering URL points to the user meter.

The Examiner indicated that the cited reference included metering software in the form of client-side code that determines billing data. However, the Examiner did not identify a URL or other pointer to the metering software in the cited reference. Instead, the Examiner indicated that the location of metering software on the client, rather than on a server as claimed, was not a patentable distinction. The Examiner also indicated that even if the cited reference did not explicitly disclose a pointer to the metering software, other prior art could be applied. Without specifically citing, the

Examiner generally identified an example reference as Archibald – US 5,825,883 (which was not cited in any office action or in an IDS prior to the telephone interview). Applicant's attorney argued that even if other art were cited, a URL would not be used to point to the metering software on the same client, where a media player also consumed streaming media. However, no resolution was reached as to clear identification of an element in any prior art that discloses the claimed metering URL itself.

Similarly, Applicant's attorney requested clarification on which alleged event of the cited reference corresponded to the claim limitation of an embedded metering event. The Examiner indicated that Figure 1 of the cited reference discloses a subscriber session time, labeled 100.1. The Examiner also indicated that the cited reference discloses a user's start and stop requests. Applicant's attorney argued that these and all other events in the cited art are not embedded in the streaming media file.

The Examiner asserted that the cited prior art and the claimed invention accomplished the same overall result of determining a billing amount to charge a client that consumed the streaming media. Applicant's attorney contended that even if, for arguments sake, the prior art and the application specification disclosed similar functions, the methods and systems for accomplishing the functions are patentably distinct. Specifically, the cited prior art estimates a time period, whereas the claimed invention extracts embedded metering events from the streaming media file to determine an amount of media that is consumed by the media player. (Note that determining an amount of media consumed by a media player is distinguishable from determining an amount of money to bill a user, even if the amount of media consumed is used in calculating the amount of money to bill.)

Applicant's attorney also explained that the claimed invention appends the metering event to the metering URL and sends the appended data to the user meter. The Examiner indicated that it is not possible to append information to URL, and requested support from the specification. Applicant's attorney explained that parameters and other data may be appended to a URL, and pointed to pages 14 and 15, which shows examples of a metering URL, a metering event, and the two appended together. The Examiner indicated that further consideration would be needed.

Applicant's attorney requested guidance on any amendments or other distinctions that would be helpful in a future submission. The Examiner indicated the additional details may be helpful regarding a verification limitation in Claims 9 and 19. The Examiner indicated that Claim 6 or related additional detail may be helpful. The Examiner cautioned that other possible prior art, such as the Archibald reference, should be considered before preparing a future submission. Applicant's attorney requested confirmation that adding new claims, rather than amending existing claims, would be considered a responsive submission to the existing FOA. The Examiner conferred with a supervisor and confirmed that adding new claims would be responsive.

Claim Rejections - 35 U.S.C. 102 over Rouse

Claims 1-7, 11-17, 21-25, and 25 were rejected under 35 U.S.C. 102(e) as being anticipated by Rouse (U.S. Patent Application Publication No. 2003/0158816). Rouse is directed to "protecting Content Server Links, including but not limited to Webcast Server Links, from piracy or unauthorized use." (Rouse, pg. 1, para. 2.) Applicant maintains the arguments discussed above and presented in prior responses filed October 21, 2005 and February 9, 2006, and hereby incorporates them by reference. Applicant has also considered the Archibald reference (US 5,825,883). Archibald is directed to accounting for usage of software. However, Archibald discloses only a billing aspect. Archibald does not disclose or suggest a method or system for determining an amount of media that is consumed. Archibald discloses only that it detects activation of a digital application. Applicant finds no disclosure of an embedded media event that is used tick a user meter, and no disclosure of a metering URL in which a target of the metering URL is the user meter.

Applicant has added Claims 29 and 30. Somewhat similar to Claim 6, Claim 29 specifies receiving a metering indicator appended to the metering URL. Support is found in the specification on pages 14 and 15. Somewhat similar to Claim 9, Claim 30 further specifies verifying an authenticity of the metering URL based on a message authentication code (MAC) applied to the metering URL and/or to the metering indicator that his appended to the metering URL. Support is also found in the specification on pages 14 and 15.

Claim Rejections - 35 U.S.C. 103 over Rouse & Shamoon

Dependent Claims 8, 18, and 26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Rouse in view of Shamoon et al. (U.S. Patent Application Publication No. 2004/0107356). Applicant maintains the arguments discussed above and presented in prior responses filed October 21, 2005 and February 9, 2006, and hereby incorporates them by reference. In addition, Shamoon does not disclose or suggest a MAC on a metering URL and/or on an embedded metering indicator. Further, Archibald does not disclose or suggest the limitations of Claims 8, 18, and 26 and does not disclose or suggest the other limitations discussed above with regard to the independent claims. Accordingly, the rejection of dependent Claims 8, 18, and 26 under 35 U.S.C. §103(a) should be withdrawn.

Claim Rejections - 35 U.S.C. 103 over Rouse, Shamoon & Tewari

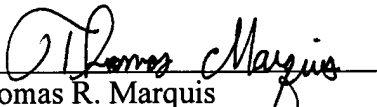
Dependent Claims 9, 10, 19, 20, and 27 were rejected under 35 U.S.C. 103(a) as being unpatentable over Rouse in view of Shamoon, and further in view of Tewari et al. (U.S. Patent Application Publication No. 2003/0097564). Applicant maintains the arguments discussed above and presented in prior responses filed October 21, 2005 and February 9, 2006, and hereby incorporates them by reference. In addition, Shamoon does not disclose or suggest verifying the authenticity of metering URL based on a MAC applied to the metering URL and/or on the embedded metering indicator. Further, Archibald does not disclose or suggest the limitations of Claims 9, 10, 19, 20, and 27 and does not disclose or suggest the other limitations discussed above with regard to the independent claims. Accordingly, the rejection of dependent Claims 8, 18, and 26 under 35 U.S.C. §103(a) should be withdrawn.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. At the very least, any office action should be non-final, so that applicant may respond to specifically identified elements of currently cited or newly cited prior art.

Dated: March 23, 2006

Respectfully submitted,

By 
Thomas R. Marquis

Registration No.: 46,900

DARBY & DARBY P.C.

P.O. Box 5257

New York, New York 10150-5257

(206) 262-8900

(212) 527-7701 (Fax)

Attorneys/Agents For Applicant